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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/750,541	12/31/2003	Carl Yee	S63.2B-13170-US01	5567

490 7590 11/02/2006

VIDAS, ARRETT & STEINKRAUS, P.A.
6109 BLUE CIRCLE DRIVE
SUITE 2000
MINNETONKA, MN 55343-9185

EXAMINER

KOTINI, PAVITRA

ART UNIT	PAPER NUMBER
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3731

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/750,541

Applicant(s)

YEE ET AL.

Examiner

Pavitra Kotini

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 June 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

This action is in response to applicant's amendment received on October 5, 2006. Applicant's arguments have been fully considered but they are not persuasive.

REPEATED REJECTIONS

The 35 U.S.C. 102b rejection of **Claims 1, 2, 4-8, 10, 11, 13-16, 18, 20, and 21** made of record in Office Action mailed on July 18, 2006 has been repeated for the reasons previously made of record and for the following reasons that address the amendments in **claims 1, 10, 18**.

In regard to **claims 1, 10, 18** Vigil et al. discloses an elongated, inflatable balloon (12, fig 1) having an outer surface (18, fig. 1), at least one incising component (28a, fig. 1) positioned on said surface of balloon, a pad (32, adjacent to incisor, fig. 3A) having a outer surface, wherein said pad is positioned on said balloon, spaced apart from, substantially parallel to and juxtaposed with said incising component (incisor 31 of 28a is spaced apart from pad 32 of 28b, fig. 3A), said pad being located to engage said incising component with said outer surface of said pad to prevent damage to said balloon by said incising component when said balloon is in a deflated configuration (the atherotomes 28a,b,c are inherently capable of engage each other because the balloon can be pressurized to deflate in a manner so that incisor 31 of atherotome 28a engages pad 32 of atherotome 28b).

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Claims 2, 4-8, 11, 13-16, 20, and 21 are rejected under 35 U.S.C. 102(b) by Vigil et al. (U.S. 5320634) for the reasons previously made of record.

Claims 1, 3, 4, 6-8, 12, 19 are rejected under 35 U.S.C. 102(e) by O'Brien (U.S. 2005/0015107) for the reasons previously made of record.

The examiner upholds the rejection that the pad is formed on the outer surface of said balloon as a homogeneous structure with said balloon (para.0028, with reference to figs. 6 and 7). The applicant's response on page 9, paragraph 4 of the response to amendment refers to another embodiment of the invention of O'Brien. As stated in the prior Office action, the Examiner refers to figures 6 and 7 (para. 0028) of O'Brien, *not* figures 9 and 10, which illustrates the embodiment of a "jacket".

Claims 9, 17, 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vigil et al. in view of Grayzel et al. (U.S. 6942680) for the reasons previously made of record.

Furthermore because it would have been obvious to a person having ordinary skill in the art at the time the invention was made to modify the base as disclosed by Vigil et al. to include stiffeners as taught by Grayzel in order to gain the advantage of increasing the stiffness of the balloon. Such as modification would provide a stiffened base which in turn would help stiffen the balloon and prevent "kinks" in the balloon.

RESPONSE TO ARGUMENTS

Applicant's arguments with respect to **claims 1, 10, and 18** have been considered but are moot in view of the new grounds of rejection.

As mentioned above, Vigil et al discloses a plurality of incising components or atherotomes that are adjacent to each other radially around the balloon. Each incising component, which consists of a blade, a base, and a pad is positioned on the surface of the balloon and spaced apart from and substantially parallel to and juxtaposed with said incising components. The blade of one said incising component is inherently capable of engaging the pad of the adjacent said incising component.

With regard to the arguments made against O'Brien, the examiner reiterates, as stated in the prior Office action, that O'Brien teaches that the pad is a homogenous structure with the outer surface of the balloon (para. 0028; fig.7, 132 and 136). The applicant is referring to another embodiment that is different from the embodiment that the examiner refers to.

The U.S.C. 103a rejection of **claims 9, 17, and 22**, are rendered obvious by Vigil et al and Grayzel for at least the reason that Vigil et al still meets the limitations of the independent claims 1, 10, and 18 even after the amendment. Furthermore, claims 9, 17, and 22 are still deemed unpatentable over Vigil et al in view of Grayzel because it is obvious and old and well known in the art that in order to solve the problem of stiffening the balloon, stiffening members must be added. The secondary reference clearly teaches this limitation. The instant

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disclosure of the claimed invention does not disclose that positioning the stiffening members on the base provides any particular advantage or is used for a particular purpose. Therefore, it would have been obvious to a person of ordinary skill in the art to use the teaching of Grayzel to modify Vigil et al in order to solve the problem of stiffening the balloon.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pavitra Kotini whose telephone number is

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571-272-0624. The examiner can normally be reached on M-F 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Anhtuan Nguyen can be reached on 571-272-4963. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Pavitra Kotini
AU 3731


ANH TUAN T. NGUYEN
SUPERVISORY PATENT EXAMINER
